

OHIO E.P.A.

JAN 11 2005

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Brost Foundry Company
198 Wayne Street
Mansfield, Ohio 44902

Respondent

Director's Final
Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to The Brost Foundry Company (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent operates a copper and copper alloys casting facility located at 198 Wayne Street, Mansfield, Richland County, Ohio (Facility).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued Ohio EPA identification number OHR 000002295 on April 14, 1995.
4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste.
5. On July 9, 2003, Ohio EPA conducted an inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Stored hazardous waste spent foundry sand at the Facility for greater than 90 days without a permit, in violation of ORC § 3734.02(E) and (F);
 - b. Failed to maintain a current and complete contingency plan, in violation of OAC rules 3745-65-52(D) and (E) and 3745-65-54;
 - c. Failed to test and maintain emergency equipment and failed to record inspections in a log or summary, in violation of OAC rule 3745-65-33;
 - d. Failed to properly label and date the hazardous waste storage containers, in violation of OAC rule 3745-52-34(A) and (C);
 - e. Failed to maintain closed hazardous waste containers except when necessary to add or remove waste, in violation of OAC rule 3745-66-73(A);
 - f. Failed to conduct and record inspections of the hazardous waste storage area, in violation of OAC rule 3745-66-74;
 - g. Failed to receive the return copy of a manifest and failed to submit an exception report, in violation of OAC rule 3745-52-42(A)(1) and (2);

- h. Failed to provide all of the applicable waste codes in the land disposal form for the spent foundry sand, in violation of OAC rule 3745-270-09(A);
 - i. Failed to implement a personnel training program or annual refresher training for all personnel handling hazardous waste at the Facility, in violation of OAC rule 3745-65-16(A),(B) and (C); and
 - j. Failed to maintain personnel training records, in violation of OAC rule 3745-65-16(D).
- 6. By letter dated July 30, 2003, Ohio EPA notified Respondent of the violations discovered during the July 9, 2003 inspection.
- 7. In correspondence dated July 12, July 30, and August 21, 2003, Respondent submitted documentation in response to Ohio EPA's July 30, 2003 letter.
- 8. By letter dated October 17, 2003, Ohio EPA notified Respondent that Respondent had abated the violations identified in Finding Nos. 5.b., 5.c., 5.e., 5.g., and 5.h.
- 9. In correspondence dated October 22 and December 2, 2003, Respondent submitted documentation in response to Ohio EPA's July 30 and October 17, 2003 letters.
- 10. By letter dated December 12, 2003, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 5.a, 5.d., 5.f., 5.i., and 5.j. had been abated. However, the Director of Ohio EPA has determined that the violation reference in Finding No. 5.a. has not been abated.
- 11. Ohio EPA is not requiring Respondent to close its hazardous waste storage unit at this time because Respondent stored the hazardous waste in a roll-off box that was shipped off-site and there are no visible signs of release at the Facility. In addition, the Orders do not reserve Ohio EPA's right to require Respondent to perform closure of the hazardous waste storage unit because the hazardous waste was stored in the generator accumulation area and Respondent, as a large quantity generator, is subject to generator closure for this hazardous waste storage unit.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall pay to Ohio EPA the amount of \$20,820.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. \$18,738.00 of this amount shall be deposited into the hazardous waste clean-up fund established pursuant to ORC § 3734.28 pursuant to the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,123.00;
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,123.00;
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,123.00;
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,123.00;
 - e. Within 450 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,123.00;
 - f. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,123.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of payment of the remaining \$2,082.00 of the civil penalty settlement, Respondent shall implement at the Facility a supplemental environmental project (SEP) as follows:

- a. Within 90 days after the effective date of these Orders, Respondent shall implement at the Facility a foundry sand recycling program (recycling program). Under the recycling program, Respondent shall collect spent foundry sand generated at the Facility and store the spent foundry sand in labeled and dated 55-gallon containers. These containers of foundry sand will be transported to Joseph Behr & Sons, Inc. in Rockwell, Illinois (Behr) for immediate recycling at Behr. Respondent shall follow all applicable hazardous waste rules and regulations in the handling, evaluating, storing, transporting, etc. of the spent foundry sand, including those hazardous waste rules contained in OAC Chapter 3745-52.
 - b. Within 30 days after the completion of Order No. 2.a., Respondent shall submit to Ohio EPA a report demonstrating the implementation of the recycling program. The report shall include documentation of expenditures, e.g., paid invoices relating to the recycling program. The report shall be submitted in accordance with Section X. of these Orders.
 - c. Respondent shall perform the recycling program as described in Order No. 2.a. for a minimum of two years at the Facility. Upon the conclusion of this two year period, Respondent shall submit to Ohio EPA a report that details the reduction of hazardous waste disposal at the Facility. The report shall be submitted in accordance with Section X. of these Orders.
3. Should Respondent fail to implement the SEP in a timely manner or fail to perform the SEP in accordance with Orders Nos. 2.a., 2.b., and 2.c., Respondent shall pay to Ohio EPA the \$2,082.00 balance of the civil penalty which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made within 30 days after the receipt of notification from Ohio EPA that Respondent has failed to implement the SEP, by tendering a certified check for \$2,082.00 made payable to "Treasurer, State of Ohio" to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Hazardous Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Hazardous Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Christopher Jones, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Christopher Jones, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
122 South Front Street
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734, or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII, of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

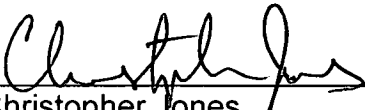
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



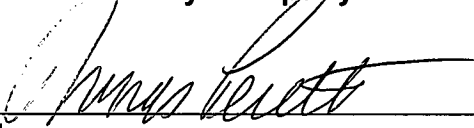
Christopher Jones
Director

January 7, 2005

Date

IT IS SO AGREED:

The Brost Foundry Company



Signature

Dec 17, 2007

Date

Thomas Perretti

Printed or Typed Name

President

Title